

**NHDES Wetlands Program Rulemaking & Process Improvement Effort**  
**2014 Spring Listening Session – Hanover**  
**April 15, 2014**

**Comments from Participants**

- "Prohibited" isn't really appropriate - there is always an exception and would need a waiver process. Consider focusing on resources of high protection/importance versus the activity and recognize/push for an alternative design (one exists in almost every situation to reduce impacts)
- Allow for contributions to a regional conservation project to count as mitigation
- Apply a standard basis for the function and values analysis for determining mitigation requirements by both the state and the federal agencies (avoid differences in opinion between the state and feds over what is required) - it has been problematic to bridge between what REAL functions and values are impacted and what the Army Corps of Engineers and EPA requires for mitigation
- Assessment process and factors evaluated for bank stabilization need to be fairly simple and low cost, and understandable by the layperson or homeowner (avoid the need for a Professional Engineer and use of rock in all cases)
- Bank stabilization needs to account for increased flashiness of rivers and increased risk of erosion. There are certain circumstances when rip-rap is an appropriate response (e.g., loss of structures). Rip-rap projects can include vegetative component in their design but should not require separate mitigation
- Be careful not to make the Wetlands Program the land use regulatory entity
- Compensatory mitigation needs to provide for mitigation of lost functions and values as much as possible on-site or as nearby or in same watershed - then go to in-lieu fee
- Consider setbacks or buffers depending on the functional assessment of wetlands associated with a project
- Encourage local organizations to look for more restoration projects (develop a plan to identify restoration opportunities so it is easier to find acceptable projects for mitigation needs)
- Encouragement/requirement for a vegetative filter strip is a good idea to project water quality

- Evaluate projects against broader scale land use planning and objectives - e.g., tie to local land use plans to assess impacts and evaluate mitigation, and to improve the wetlands permit review process to better coordinate with and consider local priorities (e.g., DOT looks at local zoning for driveway approvals & per an MOU manages access according to local specifications; also perhaps using a natural resource agency advisory meeting like the DOT transportation advisory process to bring together federal, state, and local priorities and issues)
- Expand the terminology of "mitigation" and "minimization" to include land use/site design/smart growth concepts to reduce impacts
- Have seen frequent impacts in excess of the minimum allowed under forestry notification; timber harvests should be required to have better mapping and flagging and identification of wetlands to avoid impacts. BMPs and DRED enforcement are better than they were.
- If in-lieu fee payment is the preference, then say so. Might be more acceptable now that the program is established to have as 1st choice. The in-lieu fee calculation for linear stream impacts significantly increases the fee amount - consider having different factors based on stream size and activity (e.g., mitigation project, temporary, maintenance, permanent)
- Increase the availability of natural resource data for the general public and homeowner - this will help direct development away from important resource areas
- In-lieu fee payments for river/stream work are out of line - consider the additional cost for a project to the municipality with mitigation and other minimization requirements
- Is there a need for a "statewide" planning or "NEPA-like" process to have a more comprehensive review perspective? Is there a role for the Regional Planning Commissions in this area?
- It is good and important for there to be a strong state role in wetlands regulation
- It is valuable to have technical staff visit the site - it provides a much better sense of scale of the project and impacts & helps to quickly resolve issues and questions
- Look at man-made stormwater management and drainage structures differently - allow maintenance (there can be an issue with local buffer restrictions limiting access); but if it is a jurisdictional wetland environment, there should be some level of review versus a permit-by-rule
- Lots of communities are already requiring AOT-like stormwater management on smaller lots, but an AOT-level analysis is too costly. Use the AOT stormwater management manual. Make the level of analysis and requirements appropriate to the scale of the project (use easily regulated aspects, such as total volume)
- Maintain the current professionalism of the wetlands/DES staff
- Many projects do a pre-application meeting now - it makes sense to formalize this process

- Mitigation threshold of 10,000 sq ft now drives scope of a project (trying to stay below that threshold) - versus minor/major threshold
- Need a predictable process for evaluating alternatives (standard approach, matrix framework): everyone should do it the same way
- Need BMPs for rivers by size to allow for rivers to do their thing; classified rivers & specific identified functions should be special resource
- OK to address stormwater management because necessary to protect the function of wetlands
- On-site mitigation can't compensate for lost wildlife habitat - therefore it is good to seek large tracts with mitigation
- Permitting procedures and requirements should recognize that not all projects are the same & not all impacts and resources are equal
- Ponds for wildlife are different and the rules should reflect this (not for swimming or detention)
- Recognize the value and services provided by wetlands. And their value especially in light of pressures of climate change.
- Require mitigation for the after-the-fact permits
- Rules and requirements should encourage "smart growth" type development and other practices that reduce impacts overall
- Should lower the threshold for an Alteration of Terrain permit rather than adding stormwater management review to the wetlands permit
- Simplify the expedited and permit-by-notification options so they really are faster and easier. Would it be possible to have meetings at sites for smaller scale projects and impacts with an immediate on-site "OK" to proceed - a "field permit" - perhaps with immediate access via smart phone or tablet.
- Standardize the requirements and presentation of alternatives analyzed
- Stormwater management would be good to do but the cost of a quantitative analysis could be significant
- The criteria for qualifying for a notification are too complicated - would be better to clearly identify the factors that will bump a project out of notification up front, but shouldn't just be total sq ft of impact that is deciding factor
- The NH Method is comparative - is it applicable to assessing a specific site?

- There is a need for a stronger role at the state level to objectively guide growth and development to protect natural resources
- There should be a "special" mitigation charge required if impacting an important resource (perhaps a multiplier)
- There should be a way to balance wetland impacts against the broader ecosystem/landscape perspective - e.g., don't encourage sprawl development to avoid wetland impacts where would increase total ecosystem impacts. Is this a problem with the current statute? Is it possible now to evaluate wetland permits within a broader project design evaluation context?
- Use clearer language in permits and forms (state things in plain language versus just referring to the rule reference #; the application forms are complicated and unclear)
- Wetlands review should account for the effects of climate change in assessing impacts on wetlands with a proposed project (e.g., consider areas of future increased flooding or inundation)
- Wetlands value and function depends on where it sits on the landscape - that should be part of an assessment. Need a balanced approach to assessment - trade-off between information & detail needed versus the cost involved
- While we know what "practicable" means at the Federal level, it is not clear at the state level
- Would be simpler to get into concert with Federal regulations with regard to assessment & jurisdiction - versus having different Federal versus State standards and definitions